PATENT
Attorney Docket No: AND-1001-DIV2

REMARKS

Claim 12 has been cancelled and new claim 13 has been added. The new claims are supported by the specification, drawings, and original claims, and do not add new matter. The amendments have been made to address particularly preferred aspects and embodiments of the invention, not for reasons of patentability. As such Applicant expressly reserve the right to pursue claims directed to subject matter no longer or not yet pending in a related application. Thus, upon entry of the amendments, claims 13-17 will be pending, and Applicant respectfully request reconsideration in view of the following remarks.

1. Responding to paragraph 2 of the 9/07/06 Office Letter, Applicant has transmitted a newly drafted and signed oath/declaration referencing this application in the "nonresponsive" response mailed 10/27/06. Applicant request that the documents submitted in the 10/27/06 response be admitted into the record as being responsive to the Examiner's request for correction of the declaration.

2. Responding to paragraph 3 of the 9/07/06 Office Letter, Applicant has transmitted the requisite petition and fee in the "nonresponsive" response mailed 10/27/06. Applicant request that the petition and fee be admitted into the record for correcting the deficiencies of the colored drawings. Please note Applicant's direction that colored photographs had been submitted July 6, 2004 along with the amendment to request insertion of language respecting color drawings into the specification. Applicant respectfully requests that the Examiner attach these photos to the petition for review and upon allowance of the petition have those photographs entered officially into the record.

3. Claim 12 was rejected under 35 U.S.C. section 112, first paragraph, on the premise that the specification does not contain a written description of the invention as claimed in that the disclosure does not reasonably convey to one skilled in the relevant art that the Applicant had possession of the claimed invention as of the filing date.

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The Examiner states the premise in paragraph 5 of the Office Letter that the specification as originally filed does not provide support for a generic "device" or a "device comprising an antigen presenting cell", or a "device comprising an antigen presenting cell further comprising the immunomodulatory molecule of step vi."

Applicants respectfully draw the Examiner's attention to the newly drafted claims wherein reference has been made to "artificial" antigen presenting cells. Further, as noted by the Examiner, the earlier drafted claim language has essentially been rewritten for clarity so that certain elements as disclosed in the specification are present in the claims thereby providing language to distinguish the intended invention according to the original restriction noted by the Examiner in paragraph 7 of the Office Letter.

Applicants note that a full written description of the column device sufficient for satisfying statutory 35 U.S.C section 112, first paragraph, as well as description of how to use the column and examples for visual understanding are found in the originally filed specification and claims and drawings, namely at pages 64-66 and Figure 8 and originally file claim 215. Thus, in light of the amendments, Applicant submits that the application is now in condition for allowance.

Applicant further notes that the newly added claims do not add new matter nor do they seek to capture an invention other than that as originally restricted, i.e., a column device designed to handle isolation and partitioning of T cells by the ability to manipulate their binding capability to MHC:antigen complexes (found either on the artificial APC or as designed onto substrate surfaces within compartments of the column chamber so as to ultimately modulate their (T cell) immune activity response.

Although the claim acted upon in the 9/07/06 office letter recites particular components, Applicant is at liberty to restate the embodiment to be claimed in such invention for clarity as well as for patentability. If the claimed device simply has more claimed embodiments, it is not patentably distinguishable so as to require the filing of a

separate patent. The device as now claimed is simply more correctly stated in that it has elements capable of binding artificial APC as are already recognized by the patent office by grant of patent 6,787,154. Applicants intend that the claimed invention read on the device wherein artificial APC and T cells can be manipulated such as by the binding of T cells with MHC:antigen complexes either associated with artificial APC or associated directly to a solid support in a chamber of the column device. The proof that Applicant could capture and manipulate T cells is clearly disclosed and is understandable to one of ordinary skill in the relevant arts via Examples 11-13, to wit, that Applicant has, as of the filing date, the ability to employ the ability to bind, isolate, identify, and modify T cells in vitro, and further to be able to carryout such activity via Applicant's unique and useful design of a column device in which to manipulate the T cells of interest.

4. Applicant comments finally on the Examiner's non-statutory double patenting rejection in that Applicant understands that the rejection is based on the Examiner's interpretation of the claim 12 to read on an artificial antigen presenting cell as opposed to a column device. Thus, Applicant, given the claim amendments believes and understands this issue to be currently moot.

CONCLUSION

In view of the amendments and above remarks, it is submitted that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application.

Respectfully submitted,

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